UNITED STATES PATENT AND TRADEMARK OFFICE

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10/001,475	11/01/2001	Mark Michael Groz	MMG-001V	1906

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EXAMINER
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ART UNIT	PAPER NUMBER
3629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/001,475	GROZ, MARK MICHAEL
	Examiner	Art Unit	
	Jonathan Ouellette	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *26 August 2006*.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-23 and 28-41* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-23 and 28-41* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Claims 1-23 and 28-41 are now pending in application 10/001,475.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. <u>Claims 1-6, 12-14, 17-19, 22-23, 28-31, 33-37, and 41</u> are rejected under 35

U.S.C. 102(e) as being anticipated by Thiessen et al. (US 5,495,412).

4. As per **independent Claims 1 and 12,** Thiessen discloses a method (system) for using at

least one computer to process contingent commitments (agreement

preferences/alternative solutions, C3) relating to at least one business venture involving

one or more agents comprising (C13 L6-65): receiving at the computer a request from at

least one of the one or more agents to participate in a computer-mediated decision-

making group; updating a database, the update includes information about the one or

more agents, that include contingent commitments between the one or more agents, and

rules for processing said contingent commitments to discover solutions, wherein the

contingent commitments (bargaining range or agreement preferences, C14) include at least one modal operator or quantifier (C13-C14, bargaining range 100 to 150).

5. As per Claim 2, Thiessen discloses submitting information about the agents to the database, wherein the information about the one or more agents includes privacy filters that can be removed only by said one or more agents (Abstract, C4 L45-63, C5 L42-65, C6 L16-43).

6. As per Claim 3, Thiessen discloses submitting the information about the one or more contingent commitments to the database, wherein the information of said one or more agents is controlled by privacy filters that can be removed only by said one or more agent (Abstract, C4 L45-63, C5 L42-65, C6 L16-43).

7. As per Claim 4, Thiessen discloses wherein processing said contingent commitments to discover solutions include: processing said contingent commitments to discover binding, nonbonding, subject to vote, or subject to future contingencies solutions.

8. As per Claim 5, Thiessen disclose wherein said receiving at the computer the request includes; receiving at the computer at least one contingent commitment.

9. As per Claim 6, Thiessen disclose wherein the processing said contingent commitments to discover solutions include; converting one of said solutions into a binding agreement among the one or more agents or a subset of the one or more agents.

10. As per Claim 29, Thiessen discloses wherein the using at least one computer to process contingent commitments relating to at least one business venture comprises: using at least one computer to process contingent commitments relating to one or more operating companies.

11. As per Claim 30, Thiessen discloses wherein the using at least one computer to process contingent commitments relating to at least one business venture comprises: using at least one computer to process contingent commitments relating to one or more private investment opportunities.

12. As per Claim 31, Thiessen discloses wherein the contingent commitments produce one or more contingent solutions.

13. As per Claim 33, Thiessen discloses sending an update notification from the computer to those agents in the computer-mediated decisions-making group according to agent-definable criteria, said update notification is in response to the update, wherein the update notification comprises: an indication that a new agent has joined the computer –mediated decision-making group; a description of solutions that are discovered by processing of the contingent commitments according to the rules of the database, with an indication of solution type, for each solution; information about the new agent; and information about one or more contingent commitments of said new agent.

14. As per **independent Claim 13**, Thiessen discloses a method for providing a valuation estimate, the valuation estimate pertaining to one or more quantities (C13 L6-65), said method comprising: performing one or more calculations at the request of one or more agents to estimate a value of the one or more quantities, said one or more calculations comprising: selecting one or more models; selecting one or more sets of inputs; selecting one or more entities (C3 L11-67, C4 L1-12); further selecting a multi-dimensional error reduction by selecting from the above selected items at least two of the following: a) a plurality of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or

d) *a plurality of the agents*; performing the one or more calculations utilizing one or more

computers or computing mechanisms using at least two of the following: a) a plurality of

the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or d) *a*

plurality of the agents, wherein the calculations provide the multi-dimensional error

reduction; and calculating averages for each of at least two of the following: a) a plurality

of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or d) *a*

plurality of the agents (C3 L11-67, C4 L1-12, C13-C14).

15. As per Claim 20, Thiessen discloses wherein the performing the one or more calculations

comprise: performing the one or more calculations using at least two of the following: a)

a plurality of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities,

or d) *a plurality of the agents*, and wherein the performing one or more calculations are

performed on weighted averages of at least one of at least two of the following: a) a

plurality of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or

d) *a plurality of the agents*, respectively using at least one of the following: a) a plurality

of model weighting factors, b) *a plurality of input set weighting factors*, or c) a plurality

of entity weighting factors (C3 L11-67, C4 L1-12, C13-C14).

16. As per Claim 21, Thiessen discloses wherein the performing one or more calculations at

the request of one or more agents to estimate a value of the one or more quantities

comprise: performing one or more calculations at the request of one or more agents to

estimate a value of the one or more assets or liabilities (C3 L11-67, C4 L1-12).

17. As per **independent Claim 14**, Thiessen discloses a method for using one or more

computing mechanisms by two trading parties to determine a mutually acceptable price

for one or more trading items between a first agent and a second agent (C13 L6-65), the

method comprising: notifying the first agent by said computer of an opportunity to

determine a mutually acceptable price for the one or more trading items with the second

agent; receiving by said one or more computing mechanisms data related to the

determining the mutually acceptable price between the first agent and the second agent;

and performing a calculation using the one or more computing mechanisms to determine

whether the determining the mutually acceptable price between the first agent and the

second agent results in the mutually acceptable price (C3 L11-67, C4 L1-12, C13-C14).

18. As per Claim 28, Thiessen discloses facilitating real-time communication between the

first agent and the second agent before, during, or after the negotiation session.

19. As per Claim 34, Thiessen discloses notifying the first agent and the second agent of the

outcome of the determining a mutually acceptable price.

20. As per Claim 35, Thiessen discloses wherein said receiving at the computer a request

from at least one of the one or more agents comprises: receiving at the computer a request

from at least one of the one or more agents requesting to choose different units of value.

21. As per Claim 36, Thiessen discloses wherein said receiving at the computer a request

from at least one of the one or more agents comprises: receiving at the computer a request

from at least one of the one or more agents requesting to assign serial weights to

successive rounds of a computer-process.

22. As per Claim 37, Thiessen discloses wherein said receiving at the computer a request

from at least one of the one or more agents comprises: receiving at the computer a request

from at least one of the one or more agents requesting to assign paired serial weights to successive rounds of a computer-process.

23. As per **independent Claim 17,** Thiessen discloses a method for using at least one computer to make safe disclosures, comprising: performing one or more computer-based calculations at the request of one or more agents to estimate the value of a quantity, said one or more computer-based calculations comprising selecting one or more models; selecting one or more sets of inputs; selecting one or more entities; performing one or more calculations using said models, said input sets, and said entities; selecting a multi-dimensional error reduction by selecting from the above selected items *at least two of the following*: a) a plurality of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or d) *a plurality of the agents*; calculating averages for at least two of the following: a) a plurality of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or d) *a plurality of the agents* (C3 L11-67, C4 L1-12, C13-C14), to accomplish said multi-dimensional error reduction utilizing one or more computers or computing mechanisms; calculating the median, mean, mode, or standard deviation determining a mutually acceptable price for one or more trading items between two agents (linear programming to solve optimization problem), said determining the mutually acceptable price for the one or more trading items comprising: receiving by said at least one computer a request from an agent to determine the mutually acceptable price with another agent; notifying an agent by said at least one computer of an opportunity to determine the mutually acceptable price with another agent, receiving by said at least one computer data related to the determining the mutually acceptable price for the one or

more trading items between two agents; and performing a calculation to determine whether the determining the mutually acceptable price for the one or mote trading items produces a price acceptable to said agents (C3 L11-67, C4 L1-12).

24. As per Claim 18, Thiessen discloses wherein said performing one or more computer-based calculations comprise: performing at least one networked-computer calculations, further comprising transmitting data from at least a first computer to at least one other device.

25. As per **independent Claim 19**, Thiessen discloses a method comprising: a) maintaining a database for managing contingent commitments by maintaining a database storing information, the information pertaining to existing agents, contingent commitments, and rules for processing said commitments to discover outcomes that satisfy the contingent commitments, wherein the contingent commitments include at least one modal operator or quantifier (C13 L6-65); and b) providing a valuation estimate, the valuation estimate providing an estimate as to one or more quantities by performing one or more calculations at the request of one or more agents to estimate the value of a quantity, selecting a multi-dimensional error reduction by selecting from the above selected items at least two of the following: a) a plurality of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or d) *a plurality of the agents*, wherein the estimate accomplishes the multi-dimensional error reduction (C3 L11-67, C4 L1-12, C13-C14).

26. As per Claim 41, Thiessen discloses determining a mutually acceptable price for one or more trading items between two agents, said determining the mutually acceptable price for the one or more trading items comprising notifying an agent by said computer of an

opportunity for determining the mutually acceptable price with another agent, receiving

by the computer data related to the determining the mutually acceptable price between

the two agents, performing a calculation to determine whether the determining the

mutually acceptable price produces a value acceptable to said agents.

27. As per **independent Claim 22,** Thiessen discloses computer readable media having

computer readable instructions that when executed by a processor causes the processor to

perform a method for determining a mutually acceptable price for one or more trading

items between two agents or groups of agents that includes information that is maintained

confidential to each agent from the other agent (C13 L6-65), said determining the

mutually acceptable price for the one or more trading items comprising receiving at said

computer a request from an agent to determine the mutually acceptable price with another

agent, receiving at the computer data related to determining the mutually acceptable price

between two agents, and performing a calculation to determined whether the price is

acceptable to said agents (C3 L11-67, C4 L1-12, C13-C14).

28. As per Claim 23, Thiessen discloses safely disclosing by both parties their true trading

strategy (using ICAN system is a trading strategy).

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
in section 102 of this title, if the differences between the subject matter sought to be patented and the
prior art are such that the subject matter as a whole would have been obvious at the time the invention
was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability
shall not be negatived by the manner in which the invention was made.

30. **Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiessen et al.**

31. As per Claim 7 and 9, Thiessen fails to expressly disclose receiving an identifier specifying form of payment and account information to be used in providing payments related to computer-mediated decision-making group participation and/or transactions arising from solutions, receiving an express authorization to charge said account for said computer-mediated decision-making group participation.

32. However, web commerce was well established at the time the invention was made and therefore, it would have been obvious to except payment for dispute resolution services offered over the Internet by having the user identify the type of payment they wanted to use and receive express authorization to charge an account if necessary.

33. **Claims 8, 10, 11, 15, 16, 32, and 38-40 are rejected under 35 U.S.C. 103 as being unpatentable over Thiessen et al.**

34. As per Claim 8, Thiessen fails to expressly show wherein receiving the identifier specifying form of payment and account information to be used in providing payments related to computer-mediated decision-making group participation and/or transaction arising from solutions include: receiving the identifier specifying the form of payment includes at least one of the following: credit card, debit card, Paypal, c2it, checking account transfer, or other electronic funds transfer.

35. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The dispute resolution method/system

would be performed regardless of the form of payment identifier used. Thus, this

descriptive material will not distinguish the claimed invention from the prior art in terms

of patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir.

1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

36. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have accepted multiple payment identifiers, to include: credit card,

debit card, Paypal, c2it, checking account transfer, or other electronic funds transfer,

because such data does not functionally relate to the steps in the method claimed and

because the subjective interpretation of the data does not patentably distinguish the

claimed invention.

37. As per Claim 10, Thiessen fails to expressly show wherein receiving the express

authorization comprises; receiving the express authorization from one of the group

including: a credit card issuer, a debit card issuer, a bank, or other electronic funds

transfer system sponsor.

38. However these differences are only found in the nonfunctional descriptive material and

are not functionally involved in the steps recited. The dispute resolution method/system

would be performed regardless of the where the express authorization is received. Thus,

this descriptive material will not distinguish the claimed invention from the prior art in

terms of patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed.

Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

39. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have received express authorization from credit card, debit card,

Paypal, c2it, checking account transfer, or other electronic funds transfer a credit card

issuer, a debit card issuer, a bank, or other electronic funds transfer system sponsor,

because such data does not functionally relate to the steps in the method claimed and

because the subjective interpretation of the data does not patentably distinguish the

claimed invention.

40. As per Claim 11, Thiessen fails to expressly show wherein said using the at least one

computer to process contingent commitments relating to at least one business venture

include[s] at least one from the group of: using the at least one computer to process a

computer-mediated decision-making process among a plurality of parties concerning the

price of a collection of goods and/or services; using the at least one computer to process a

computer-mediated decision-making process among a plurality of parties concerning a

non-price scalar value; using the at least one computer to process a computer-mediated

decision-making process relating to a collection of goods and/or services; using the at

least one computer to process a computer-mediated decision-making process among a

plurality of parties relating to venture capital investing; using the at least one computer to

process a computer-mediated decision-making process among a plurality of parties

relating to joint venture undertaking; using the at least one computer to process a

computer-mediated decision-making process among a plurality of parties relating to the

development of intellectual property; using the at least one computer to process a

computer-mediated decision-making process among a plurality of parties relating to

internal corporate strategic planning; using the at least one computer to process a

computer-mediated decision-making process among a plurality of parties concerning the

scheduling of one or more meeting, events, or processes; using the at least one computer

to process a computer-mediated decision-making process among a plurality of parties

concerning the early adoption of new products and/or services; using the at least one

computer to process a computer-mediated decision-making process among a plurality of

parties concerning disposition of funds for charitable purposes; using the at least one

computer to process a computer-mediated decision-making process among a plurality of

parties concerning conduct of central bank policy; using the at least one computer to

process a computer-mediated decision-making process among a plurality of parties

concerning government or inter-governmental policy-making; and using the at least one

computer to process a computer-mediated decision-making process among a plurality of

parties relating to group activities.

41. However these differences are only found in the nonfunctional descriptive material and

are not functionally involved in the steps recited. The dispute resolution method/system

would be performed regardless of the types of problems disputed. Thus, this descriptive

material will not distinguish the claimed invention from the prior art in terms of

patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir.

1983); *In re Lowry,* 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

42. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have resolved a multitude of problem types, because such a

problem type does not functionally relate to the steps in the method claimed and because

the subjective interpretation of the problem type does not patentably distinguish the

claimed invention.

43. As per Claim 15, Thiessen fails to expressly show wherein the receiving by said one or more computing mechanisms data related to the determining the mutually acceptable price comprises: receiving by said one or more computing mechanisms data related to the determined the mutually acceptable price associated with a collection of goods, services, or other assets and/or liabilities, whether tangible or intangible.

44. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The dispute resolution method/system would be performed regardless of the negotiation subject/data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry,* 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

45. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have negotiated a price associated with a collection of goods, services, or other assets and/or liabilities, wherein the assets can be either tangible or intangible, as part of the method/system, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

46. As per Claim 16, Thiessen fails to expressly show wherein within the receiving by said one or more computing mechanisms data related to the determining the mutually acceptable price between the first agent and the second agent, one of said first agent or second agent is a buyer and a second one of said first agent or second agent is a seller.

47. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The dispute resolution method/system would be performed regardless of who the agent is. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry,* 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

48. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the system/method to solve problems between a buyer and seller, because such agents do not functionally relate to the steps in the method claimed and because the subjective interpretation of the agents do not patentably distinguish the claimed invention.

49. As per Claim 32, Thiessen fails to expressly show wherein the contingent commitments relating to at least one from the group of pension funds, institutional money managers, venture capitalists, angel investors, and other qualified investors.

50. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The dispute resolution method/system would be performed regardless of what the contingent commitment related to. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry,* 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

51. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the system/method to solve problems related to pension

funds, institutional money managers, venture capitalists, angel investors, and other

qualified investors, because such agents do not functionally relate to the steps in the

method claimed and because the subjective interpretation of the agents do not patentably

distinguish the claimed invention.

52. As per Claim 38, Thiessen fails to expressly show wherein one of said agents is an

employee, and the other of said agents is an employee of the employee.

53. However these differences are only found in the nonfunctional descriptive material and

are not functionally involved in the steps recited. The dispute resolution method/system

,would be performed regardless of the type of agents involved. Thus, this descriptive

material will not distinguish the claimed invention from the prior art in terms of

patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir.

1983); *In re Lowry,* 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

54. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have involved and employee and the an employee of the employee

as agents, because such agents do not functionally relate to the steps in the method

claimed and because the subjective interpretation of the agents do not patentably

distinguish the claimed invention.

55. As per Claim 39, Thiessen fails to expressly show receiving at the computer a request

from at least one of the one or more agents relating to an employee's compensation.

56. However these differences are only found in the nonfunctional descriptive material and

are not functionally involved in the steps recited. The dispute resolution method/system

would be performed regardless of the type of request received. Thus, this descriptive

material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry,* 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

57. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have received a request from at least one of the one or more agents relating to an employee's compensation, because such agents do not functionally relate to the steps in the method claimed and because the subjective interpretation of the agents do not patentably distinguish the claimed invention.

58. As per Claim 40, Thiessen fails to expressly show receiving at the computer a request from at least one of the one or more agents relating to an online marketplace.

59. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The dispute resolution method/system would be performed regardless of the type of request received. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry,* 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

60. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have received a request from at least one of the one or more agents relating to an online marketplace, because such agents do not functionally relate to the steps in the method claimed and because the subjective interpretation of the agents do not patentably distinguish the claimed invention.

Response to Arguments

61. Applicant's arguments filed 8/24/2006 have been fully considered but are not persuasive; the rejection will remain as **FINAL** based on the sited prior art of Thiessen.

62. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

63. The Applicant has made the argument that the prior art fails to expressly disclose a computer-mediated decision-making group in which multiple agents utilize contingent commitments; wherein the contingent commitments include at least one modal operator *or quantifier.*

64. However, as the Applicant has pointed out, the Prior art of Thiessen discloses "a computer-based method and apparatus for assisting multiple parties (computer-mediated) involved in complex negotiations in reaching agreement that optimizes the individual and overall benefit to the parties (Thiessen, C1 L9-13). Thiessen also discloses wherein the negotiations involve obtaining agreement preferences (bargaining range or agreement preferences, C14 – equivalent to contingent commitment) from the parties involves,

wherein the preferences include at least one quantifier (C13-C14, bargaining range 100 to 150).

65. Furthermore, the contingent commitment module described in the specification as a facility for making contingent commitments of capital and/or other resources, and for transforming such multiple contingent commitments into "done deals."

66. Therefore, the ICANS system described by Thiessen would be equivalent to the contingent commitment module, as a facility for making contingent commitments of capital and/or other resources, and for transforming such multiple contingent commitments (agreement preferences) into "done deals."

67. As per Claim 13, the Applicant makes the argument that the sited prior art fails to, in any way, address the problem of measuring the value of a quantity, nor does the prior art in any way describe a method for reducing the error associated with such measurement.

68. However, Thiessen does disclose the steps of calculating and reducing error associated with the calculations as claimed (selecting the appropriate combinations of possible variants): performing one or more calculations at the request of one or more agents to estimate a value of the one or more quantities, *said one or more calculations comprising: selecting one or more models; selecting one or more sets of inputs; selecting one or more entities* (C3 L11-67, C4 L1-12); further selecting a multi-dimensional error reduction *by selecting from the above selected items at least two of the following*: a) a plurality of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or d) *a plurality of the agents*; performing the one or more calculations utilizing one or more computers or computing mechanisms using at least two of the following: a) a plurality of the models,

b) *a plurality of the sets of inputs*, c) a plurality of the entities, or d) *a plurality of the agents*, wherein the calculations provide the multi-dimensional error reduction; and calculating averages for each of at least two of the following: a) a plurality of the models, b) *a plurality of the sets of inputs*, c) a plurality of the entities, or d) *a plurality of the agents* (C3 L11-67, C4 L1-12, C13-C14).

69. Finally, the Applicant makes the argument that the complex negotiation system described by Thiessen differs fundamentally from the determining the mutually acceptable price of the present disclosure.

70. However, determining a mutually acceptable price between two parties is considered by the Examiner to be equivalent to a complex negotiation, depending on the pricing structure and level of mutual satisfaction between the parties.

71. Finally, the Applicant makes the argument that the prior art of Thiessen fails to disclose or suggest using one or more computers to determine a mutually acceptable price for one or more trading items.

72. However, Thiessen does use the example of two parties trading electricity (a trading item) for money, and using the ICANS system to negotiate a mutually acceptable price (C13-C14).
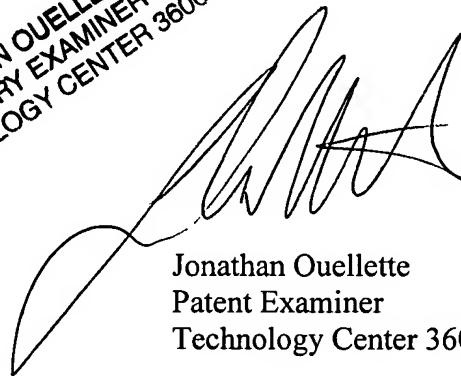
Conclusion

73. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-

6807. The examiner can normally be reached on Monday through Thursday, 8am -

5:00pm.

74. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for

the organization where this application or proceeding is assigned (571) 273-8300 for all

official communications.

75. Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the Office of Initial Patent Examination whose telephone number is

(703) 308-1202.

November 7, 2006

Jonathan Ouellette
Patent Examiner
Technology Center 3600